IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.12097 of 2000

Dated: 20-11-2007

Between:

1. Kommireddy Ramana Reddy s/o Pitchi Reddy and another.

... Petitioners

and

1. The Chairman,
   Co-operative Tribunal,
   Vijayawada,
   Krishna District and two others.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* declaring the order of the Chairman, Cooperative Tribunal, Vijayawada – first respondent in O.A.No.54/97 dated 28-01-2000 confirming the order of the Assistant Sugar Cane Inspector and Arbitrator – second respondent in ARC.No.70/83-84 dated 07-04-1993 as illegal and arbitrary with a consequential direction to the Managing Director, Kovvur Cooperative Sugar Factory Limited – third respondent to pay compensation to petitioners as claimed in ARC
No.70/83-84.

2. Facts, in brief, are: Second petitioner is the wife of the first

petitioner. They are agriculturists and members of third respondent Sugar Factory.

They own Acs.4-00 of land each in Sy.No.517/3 at Kodurupadu village in Nellore rural Mandal and they raised sugarcane variety Co.997 in the said land in the month of January, 1978. They entered into an agreement dated 13-03-1978 with the third respondent factory for supply of sugarcane raised on the above said land for crushing and third respondent factory had agreed to take the sugarcane from them as per the terms and conditions stipulated therein. As per condition No.1 of the said agreement, petitioners have agreed to supply the sugarcane raised in the lands in question during

1978-79 to the third respondent factory as per the rates fixed by the Government, whereas the third respondent factory has agreed to take sugarcane as per condition No.2 of the agreement as and when the sugarcane is ripe for cutting, as far as possible, on the basis of instalments, within a short time. According to the petitioners though the sugarcane raised by them in the month of January, 1978 was ripe by the end of 1978 i.e. it was ready for cutting, the third respondent factory did not start crushing operations till March, 1979 as a result of which the entire sugarcane got damaged, dried up and in-fact became unfit for crushing. Hence, petitioners filed claim petition, being A.R.C.No.70/ 83-84, under Section 61 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act') claiming compensation of Rs.48,000/-, being the value of 400 tons of sugarcane raised in Acs.8-00 of land, with interest at the rate of 15% per annum and also Rs.9,600/- towards costs of 80 tons of sugarcane, which they would have realized on the residuary sugarcane over and above 400 tons. In total they claimed Rs.57,600/- towards damages and Rs.7,200/- towards interest. The second respondent after hearing both the parties rejected the claim petition by order dated 07-04-1993 holding that the claim for compensation is not tenable. Aggrieved by the said order, petitioners filed O.A.No.54 of 1997 before the first respondent – Chairman, Andhra Pradesh Cooperative Tribunal, Vijayawada, who dismissed the same on 28-01-2000 confirming the order of the second respondent. Questioning the said orders, the present writ petition has been filed.

3. The second respondent filed a counter-affidavit stating, *inter alia*,

that the third respondent factory sent a letter dated 20-03-1979 calling upon petitioners to supply the sugarcane immediately and also issued pamphlets, by publishing the same in the local news papers, Zamin ryot, requesting all the cane-growers, who entered into agreement with the third respondent factory, to supply the cane immediately. However, petitioners have not taken any steps for supply of sugarcane from the fields in spite of the fact that crushing was done for the period from 06-03-1979 to 02-05-1979. It is further stated that though it was obligatory on the part of petitioners to issue notice to the third respondent factory informing that the sugarcane crop was ready for cutting by the end of December, 1978, so as to enable the factory to make alternative arrangements to transport it to the neighbouring sugar factory, petitioners have not issued any notice and moreover allowed the crop to dry up. As petitioners have violated the terms of the contract, by not supplying the sugarcane during the crushing period, both the authorities have rightly held that petitioners are not entitled to any compensation from the respondents and as such there are no reasons to interfere with the orders impugned.

4. Heard learned counsel for the parties.

5. Learned counsel for petitioners contended that both the respondents 1 and 2, grossly misinterpreting the terms of Ex.A1 agreement dated
13-03-1978, erroneously held that the sugarcane crop was raised after execution of Ex.A1 agreement and the respondents 1 and 2 ought to have seen that the sugarcane crop was already in existence at the time of execution of Ex.A1 agreement dated 13-03-1978 as disclosed by Ex.A1. He further contended that though there is neither an obligation on the part of the petitioners to inform the third respondent that the sugar cane crop was ready for cutting, nor any condition imposed on the petitioners to that effect in Ex.A1 agreement, both the authorities erroneously held that it is only due to the fault of the petitioners the sugarcane crop was dried up and as such petitioners are not entitled to any compensation.

6. On the other hand, learned counsel for the third respondent while supporting the orders impugned vehemently contended that though it is obligatory on the part of the petitioners to inform the third respondent

factory that the sugarcane crop was ready for cutting by the end of December,1978, they have not informed the same to the third respondent. He further contended that as petitioners have violated the terms of Ex.A1 agreement,
in not supplying the sugarcane during the crushing period and the sugarcane crop dried only due to the fault of the petitioners, both the authorities i.e. respondents 1 and 2 perfectly held that the third respondent is not liable to pay any compensation to the petitioners and there are no valid and cogent reasons to interfere with the orders impugned.

7. In view of the rival contentions raised on either side it is apt to refer to the crucial terms and conditions incorporated in Ex.A1 agreement. As Ex.A1 is in Telugu, on translation, it reads thus:

> 1) Petitioners agreed to sell the sugarcane raised for the season 1978-79 in the schedule lands to the third respondent after deducting the exemptions as per law and as per the minimum rate fixed by the Government. Petitioners also agreed to supply the sugarcane neatly at the factory gate, after removing leaves, roots and mud etc.,
> on the date, time and quantity of the sugarcane as per orders of the Sugarcane Commissioner in accordance with the cutting order issued by the third respondent.
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> 2) The third respondent agreed to take the sugarcane covered by the agreement, subject to its maturity, from the field as far as possible, within a short time.

8. From a reading of Ex.A1 agreement, it is clear that only after issuance of cutting order by the third respondent the petitioners have to supply the sugarcane neatly at factory gate, subject to other conditions. Therefore,
the contention of the learned counsel for the third respondent that there is an obligation on the part of the petitioners to inform the third respondent that the sugarcane crop is ready for cutting, cannot be countenanced, because there is no such obligation or covenant incorporated in Ex.A1. Further, in the absence of any covenant between the parties with regard to informing that the sugarcane crop is ready for cutting, it cannot be said that there is a general obligation on the part of the petitioners to inform the third respondent about the same.

9. Moreover, as per condition No.2 of Ex.A1 agreement, the third respondent has agreed to take the sugarcane from the field subject to its maturity as early as possible within a short time. Therefore, as per this condition, it can be said that the third respondent factory has to send his men to know about the maturity of the sugarcane crop from time to time, so as to enable it to take the sugarcane crop within a short time of the maturity of the sugarcane crop. Merely because the other ryots have informed the third respondent about the sugarcane crop raised in their fields is ready for cutting, the third respondent is not expected to say that petitioners too have to inform the same to it. In the absence of any covenant it cannot be said that petitioners should be fastened with any liability occurred consequent on the non-informing of the same to the third respondent.

10. Admittedly, the third respondent factory issued letter dated 20-03-1979 calling upon the petitioners to supply the sugarcane immediately and also issued pamphlets, published the same in the local news papers, Zamin ryot, requesting all the cane growers, who entered into agreement with the third respondent factory, to supply the cane immediately. If really there is no obligation on the part of the third respondent to call upon the petitioners to supply the sugarcane for the crushing season 1978-79, it would not have issued the letter dated 20-03-1979 calling upon the petitioners to supply the sugarcane immediately. Admittedly the sugarcane crop, which was raised in the month of January, 1978 comes under Co.997 variety. One P. Babu Naidu, who was working as Chief Agricultural Officer of the third respondent factory was examined as a witness before the second respondent in A.R.C.No.70/83-84 and he deposed in his chief-examination that the duration of sugarcane crop varies, i.e. from 9 to 10 months, if it is an early crush, from 10 to 11 months, if it is a middle crush and above
12 months if it is a late crush. In his cross-examination he deposed that Co.997 variety comes under early variety and it becomes ripe by nine months from the date of sowing. When such is the case, the third respondent has to issue letter, calling upon the petitioners to supply the sugarcane, according to the maturity of the sugarcane, but not beyond 12 months i.e. during the crushing period from 06-03-1979 to 02-05-1979.

11. Viewed from any angle, as rightly contended by learned counsel for the petitioners, this Court is of the view that the respondents 1 and 2 have misinterpreted the terms and conditions of Ex.A1 agreement and erroneously refused to award compensation to the petitioners. Accordingly, this Court is of the view that both the orders passed by the respondents 1 and 2 are liable to be set aside.

12. Coming to the quantum of compensation, petitioners have claimed Rs.48,000/- being the value of 400 tons of sugarcane raised in Acs.4-00 of the land and also Rs.9,600/- towards the costs of 80 tons of sugarcane which they would have realized on the residuary sugarcane over and above 400 tons. Thus, in total, an amount of Rs.57,000/- was claimed towards damages and Rs.7,200/- towards interest. Having regard to the fact that the entire sugarcane crop was dried up, the petitioners could have sold the residuary sugarcane. In such an event, they could have got some amount. In that view of the matter, this Court is of the view that the petitioners are not entitled to Rs.9,600/-.

13. Admittedly, there is no covenant in Ex.A1 agreement that petitioners should inform the third respondent that the sugarcane crop raised in the lands covered by Ex.A1 agreement is ready for cutting. Equally, there is no specific condition that it is the third respondent factory alone that has to take steps for cutting of the sugarcane. In normal circumstances i.e., in the absence of any agreement, no doubt, there is an obligation on the part of the ryots to inform the factory the time when the sugarcane crop is ready for cutting. It may not be out of place to mention here that in the absence of such a covenant, innocent and poor sugarcane growers, like petitioners, cannot be made to suffer. Having regard to the facts and circumstances of the case, I deem it appropriate to grant an amount of Rs.48,000/- as just and reasonable compensation to the petitioners payable by the third respondent with interest at 6% per annum thereon from March,1979 till realization.

14. In the result, the writ petition is allowed and the order dated 28-01-2000 passed by the first respondent confirming the order dated 07-04-1993 passed by the second respondent is set aside. Consequently, the third respondent is directed to pay an amount of

Rs.48,000/- to the petitioners towards compensation with interest at 6% per annum thereon from March, 1979 till realization.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.20-11-2007
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